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Amendment

23  
the first connecting strut including a second end portion which is connected to the second expansion strut column at a second location, the first and second locations longitudinally and circumferentially offset from one another.

#### REMARKS

This Amendment is in response to the Office Action mailed November 8, 2002, wherein claims 34-43 were rejected. The specific rejections to the claims are addressed in the following paragraphs, which are provided with paragraph headings corresponding to the rejections as were presented in the Office Action.

#### Claim Rejections - 35 USC §112

In the Office Action claims 35 and 40 were rejected under 35 U.S.C. §112, first paragraph. More specifically the Office Action asserts that the specification does not reasonably provide enablement for a structure where the ratio of connector struts to expansion struts is 2:1.

As an initial matter, Applicant notes that the rejection is directed to claims 35 and 40. Claim 40 does not include any recitation of a ratio. Therefore, Applicant requests clarification of the rejection to claim 40.

In regard to claim 35 and 41 however, Applicant has amended the claims to recite that the ratio of the first expansion struts to the first connecting struts is 2:1. Applicant does not consider the amendment as narrowing the scope of the claims.

In the Office Action claims 36, 38 and 40-43 were rejected under 35 U.S.C. §112, second paragraph as being indefinite.

In regard to claims 36 and 38 Applicants have amended the claims to remove reference to the term "loop" or "loops".

In regard to claim 39 the Office Action states that the term "curved member" to connect adjacent expansion struts of the first and second expansion column lacks support in the specification. The Office Action further states that the joining struts appear to be straight not curved as disclosed. Applicant maintains that the language is supported, but never-the-less has deleted the recitation of "curved member" from the claim. Applicant however does not disclaim the use of the language at a later date.

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With regard to claims 39 and 42 the Office Action states that it is not clear what the "geometric cells" or "cells" of the disclosed invention are because this terminology is not used in the specification.

In response, Applicant respectfully directs the Examiner to page 10 lines 12-26 of the original Application as filed wherein the terms "cells" and "geometric cells" are described. The use of the phrases "cells" and "geometric cells" in the instant claims is consistent with and fully supported by the specification as filed. As a result, the recitation of the elements "geometric cells" or "cells" in the instant claims is clear and the rejection is respectfully traversed.

As to claims 40, 41 and 43, the Office Action rejected the claims as being indefinite because they were said to depend from indefinite claims. In light of the above amendments, the claims are not indefinite.

#### **Double Patenting**

In the Office Action claims 34-38 were provisionally rejected under the judicially created doctrine of double patenting over claims 1-9 of copending Application No. 10/124,224.

This rejection is provisional, and as such Applicant will address the rejection upon the finding of allowable subject matter.

#### **Claim Rejections - 35 USC §102**

In the Office Action claims 34-43 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. 5,807,404 to Richter et al (Richter).

In response, Applicant asserts that Richter is not prior art to the present Application. Richter was filed on September 19, 1996 with no earlier claim of priority. The present Application claims an earlier priority date of April 26, 1996. Therefore, Richter cannot anticipate the instant claims under §102(e). The rejection is thus respectfully traversed.

The Office Action rejected claims 34-36 and 39-43 under 35 U.S.C. §102(b) as being anticipated by U.S. 5,449,373 to Pinchasik et al (Pinchasik).

In response, Applicant asserts that Pinchasik fails to teach a stent having all of the features of the instant claims. In contrast to the requirements of instant claim 34, 39, Pinchasik,

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fails to teach a stent having a first second and third serpentine expansion columns wherein the first and second expansion columns are connected by a first connecting strut column and the second and third serpentine expansion columns are connected by a second connecting strut column. Instead, Pinchasik shows, such as in FIGs. 2A-2C, a stent wherein a first connecting strut column connects the first and second expansion columns, but the second and third expansion column are connected directly together without a second connecting strut column therebetween as instant claim 34 recites.

As to independent claim 42, Pinchasik does not teach a stent comprising a plurality of cells, wherein each of the plurality of cells has substantially the same asymmetrical shape as the instant claim describes.

In light of the above the rejection is respectfully overcome.

In addition to the above, Applicant has included new claims 44-50 for consideration. Claims 44-50 contain no new matter and are fully supported by the Application as filed.

#### **FORMALITIES**

If an extension of time is required to make this response timely and no separate petition is enclosed, Applicant hereby petitions for an extension of time sufficient to make the response timely. In the event that this response requires the payment of government fees and payment is not enclosed, please charge Deposit Account No. 22-0350.

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**CONCLUSION**

In view of the foregoing it is believed that the present application, with claims 34-50 is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: 2/10/03

By: 

James M. Urzedowski  
Registration No.: 48,596

6: 09 Blue Circle Drive, Suite 2000  
Minnetonka, MN 55343-9185  
Telephone: (952) 563-3000  
Facsimile: (952) 563-3001  
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*Marked-Up Text*

**MARKED COPY OF THE AMENDED PORTION OF THE SPECIFICATION**

Page 1, please delete lines 2-12 and replace with the following:

--This application is a continuation of U.S. Patent Application number 09/574,077, filed May 18, 2000 which is a continuation of U.S. Patent Application number 08/845,734, filed April 25, 1997, now abandoned which is a continuation-in-part of U.S. Patent Application number 08/824,142, filed March 25, 1997, now U.S. Patent number 6,241,760 and a continuation-in-part of U.S. Patent Application number 08/824,866, filed March 26, 1997, now U.S. Patent number 5,953,743 and a continuation-in-part of U.S. Patent Application number 08/824,865, filed March 25, 1997, now U.S. Patent number 6,152,957 and is a continuation-[on]in-part of U.S. Patent Application number 08/845,657, filed April 25, 1997, now U.S. Patent number 5,922,021, which [a.l of which are incorporated herein by reference. This application] claims the benefit of Provisional Patent Application No. 60/017,484 filed April 26, 1996, the entire contents of all [disclosure] of which are [is] incorporated herein by reference. --

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*Marked-Up Text*

MARKED COPY OF THE AMENDED CLAIMS

Please replace claim 34 with the following amended claim:

34. (Amended) A stent constructed from a metal tube, the stent comprising:  
a plurality of interconnected first expansion struts, the first expansion struts forming a first serpentine expansion column having a proximal end region and a distal end region,  
a plurality of interconnected second expansion struts, the second expansion struts forming a second serpentine expansion column having a proximal end region and a distal end region,  
a plurality of interconnected third expansion struts, the third expansion struts forming a third serpentine expansion column having a proximal end region and a distal end region,  
a first connecting strut column comprising a plurality of first connecting struts, each first connecting strut having a first end extending from the distal end region of the first serpentine expansion column, a second end extending from the proximal end region of the second serpentine expansion column and at least one curved region between the first end and the second end of the first connecting strut, the first end of the first connecting strut longitudinally and circumferentially offset from the second end of the first connecting strut,  
a second connecting strut column comprising a plurality of second connecting struts, each second connecting strut having a first end extending from the distal end region of the second serpentine expansion column, a second end extending from the proximal end region of the third serpentine expansion column and at least one curved region between the first end and the second end of the second connecting strut, the first end of the second connecting strut longitudinally and circumferentially offset from the second end of the second connecting strut.

Please replace claim 35 with the following amended claim:

35. (Amended) The stent of claim 34 wherein the first expansion struts and the first connecting struts are provided in a ratio, the ratio of the first expansion struts to the first connecting struts is [of] 2:1.

Please replace claim 36 with the following amended claim:

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36. (Amended) The stent of claim 34 wherein the first expansion column comprises a plurality of [loops] joining struts in the distal end region and a plurality of [loops] joining struts in the proximal end region, the second expansion column comprises a plurality of [loops] joining struts in the distal end region and a plurality of [loops] joining struts in the proximal end region, and each first connecting strut has a first end which extends from a side of one [loop] joining strut in the distal end region of the first expansion column and a second end which extends from a side of one [loop] joining strut in the proximal end region of the second expansion column.

Please replace claim 37 with the following amended claim:

37. (Amended) A stent constructed from a metal tube, the stent comprising:

a plurality of interconnected first expansion struts, the first expansion struts forming a first expansion column having a proximal end region and a distal end region, each first expansion strut connected only at a proximal end to one first expansion strut adjacent thereto and only at a distal end to another first expansion strut adjacent thereto;

a plurality of interconnected second expansion struts, the second expansion struts forming a second expansion column having a proximal end region and a distal end region, each second expansion strut connected only at a proximal end to one second expansion strut adjacent thereto and only at a distal end to another second expansion strut adjacent thereto;

a first connecting strut column comprising a plurality of first connecting struts, each first connecting strut having a first end extending from the distal end region of the first expansion column, a second end extending from the proximal end region of the second expansion column and at least one curved region between the first end and the second end of the connecting strut, the first end of the first connecting strut longitudinally and circumferentially offset from the second end of the first connecting strut.

Please replace claim 38 with the following amended claim:

38. (Amended) The stent of claim 37 wherein the first expansion column comprises a plurality of [loops] joining struts in the distal end region and a plurality of [loops] joining struts in the proximal end region, the second expansion column comprises a plurality of [loops] joining struts in the distal end region and a plurality of [loops] joining struts in the proximal end region,

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and each first connecting strut has a first end which extends from a side of one [loop] joining strut in the distal end region of the first expansion column and a second end which extends from a side of one [loop] joining strut in the proximal end region of the second expansion column.

Please replace claim 39 with the following amended claim:

39. (Amended) A stent constructed from a metal tube, the stent comprising:

a plurality of interconnected first expansion struts, the first expansion struts forming a first serpentine expansion column having a proximal end region and a distal end region, [first expansion struts which are adjacent one another connected via a curved member,]

a plurality of interconnected second expansion struts, the second expansion struts forming a second serpentine expansion column having a proximal end region and a distal end region, [second expansion struts which are adjacent one another connected via a curved member,]

a plurality of interconnected third expansion struts, the third expansion struts forming a third serpentine expansion column having a proximal end region and a distal end region,

a first connecting strut column comprising a plurality of first connecting struts, each first connecting strut having a first end extending from the distal end region of the first expansion column and a second end extending from the proximal end region of the second expansion column and at least one curved portion,

a second connecting strut column comprising a plurality of second connecting struts, each second connecting strut having a first end extending from the distal end region of the second expansion column and a second end extending from the proximal end region of the third expansion column and at least one curved portion;

the first serpentine expansion column, the second serpentine expansion column and the first connecting strut column forming a plurality of geometric cells about the circumference of the stent,

each geometric cell having a proximal region extending between two adjacent first expansion struts, a distal region extending between two adjacent second expansion struts and a middle region extending between two adjacent first connecting struts, the proximal region and the distal region circumferentially offset from one another.



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Please replace claim 41 with the following amended claim:

41. (Amended) The stent of claim 40 wherein the first expansion struts and the first connecting struts are provided in a ratio, the ratio of the first expansion struts to the first connecting struts is [of] 2:1.

Please replace claim 42 with the following amended claim:

42. (Amended) A stent constructed from a metal tube, the stent comprising a plurality of cells, each of the plurality of cells having substantially the same asymmetrical shape. each of the plurality of cells having a first end portion which extends substantially in a longitudinal direction and a second end portion which extends substantially in a longitudinal direction, the second end portion longitudinally and circumferentially offset from the first end portion, the first end portion connected to the second end portion via a plurality of connecting members each of which has a plurality of curved sections.